THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.5312 of 2006

Date:18th September, 2007

Between :-

M. Penchalaiah and another .. Petitioners

And

The Government of A.P.,
Rep. by its Secretary,
Revenue Endowments Section IV Department,
Secretariat Buildings, Hyderabad
And 2 others .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.5312 of 2006

ORDER:-

This Court issued *rule nisi* on 18-3-2006.

2. Counter affidavit is filed by R.3.

3. Though the matter is coming under the caption of Interlocutory, at the request of the Counsel on record, the matter is being disposed of finally.

4. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in not according permission for payment of 50% of ticket share to the barbers working in 3rd respondent Temple as illegal and arbitrary and consequently direct the respondents to pay 50% of ticket share to the barbers w.e.f. 1-1-97 and to pass such other suitable orders.

5. It is stated that the petitioners are working as barbers in Sri Penusila Lakshmi Narasimha Swamy Temple. It is also stated that there are Barbers and Bhajantries. It is further stated that the Bhajantries have been given scales soon after abolition of hereditary rights and the Barbers are being paid remuneration for their services a share in the sale of tickets through M.Penchala Swamy, the Head of Barber Servicedars. It is also further

stated that after the abolition of hereditary holders system, the remuneration towards Barbers services was fixed at Rs.1-25 out of ticket value of Rs.4/- w.e.f. 5-12-1996. It is further stated that the ticket rate was subsequently enhanced from Rs.4/- to Rs.5/- and the remuneration to the Barbers was also fixed at Rs.2/- per each ticket. It is also stated that there are 15 Barbers working in 3rd respondent Temple and the amount paid to each Barber per month is Rs.690/- and out of this amount the Barbers have to purchase blades etc., and the Temple is not meeting the expenditure and in view of the same, the Barbers have requested for enhancement of remuneration. It is also further stated that the 2nd respondent in Rc.No.D3/16360/2005 dated 26-4-2005 called for a report from the 3rd respondent and the 3rd respondent in proceedings Rc.No.68, dated 2-5-2005 has sent proposals for payment of 50% of ticket share to the Barbers and there after the Barbers made a representation to the respondents 1 and 2 on 20-9-2005 and so far the respondents have not accorded permission for payment of 50% of ticket share to the Barbers. It is further stated that the Barbers working in the Temple are being paid a share in sale of tickets and the other service-holders are given the benefit of time scale of pay. It is

also stated that the income through the sale of human hair comes to Rs.30,00,000/- per year and during the year 2006 the income for three months is Rs.44,15,000/-. It is further stated that apart from the income from hair, the temple is getting Rs.4,00,000/- per year through the sales of the tickets. It is also further stated that even if the benefit of time scale is extended to the Barbers, it would be Rs.5,74,200/- per year and there will not be any financial burden to the temple and that the 50% of ticket share is much less than the time scale and the respondents are not paying even 50% of ticket share. It is further stated that the action of the respondents in not paying 50% of ticket share to the Barbers is illegal and arbitrary. It is also further stated that the remuneration to each Barber comes to Rs.881/- per month if 50% of ticket share is extended and even this amount is very meager to sustain. It is also stated that the 3rd respondent has recommended for payment of 50% of ticket share to the Barbers as long back as on 2-5-2005 and so far the respondents 1 and 2 have not accorded permission and as such the petitioners are praying for a direction to respondents 1 and 2 to accord permission for payment of 50% of ticket share to the Barbers w.e.f. 1-1-1997 pending disposal of the Writ Petition.

6. In the counter affidavit filed by the 3rd respondent it is stated that the 3rd respondent was appointed as Executive Officer to the subject Temple and took charge on 23-2-2006. It is also stated that the record of the Temple does not disclose that both the petitioners are working as Barbers in the subject Temple and they may be Barbers or Bhajantries by profession, but they are not connected with the affairs of the Temple and at no point of time, they were allowed to do the tonsuring or doing Bhajantries service in the Temple. It is further stated that there is prevailing system in the Temple some persons doing Bhajantri service in the temple and they used to do the work of tonsuring of the Devotees who offered their hair to the Deity. It is also further stated that after the Hon'ble Supreme Court confirmed the abolition of the hereditary rights of hereditaryship of service holders by virtue of Section 34 and Section 144, the then Executive Officer has informed through his proceedings in Rc.No.A2/31/96 dated 20-4-96 that hereditary bajantri service was abolished and the names of the writ petitioners do not figure in that list. It is also stated that the Bhajantries who were worked earlier to 1996 has engaged some local persons to do the tonsuring whenever there is rush in the Temple for that work and

they might have engaged the services of the writ petitioners and the Temple never recognized the services of the writ petitioners either working as Bhajantries or Barbers. It is further stated that the Commissioner of Endowments vide his proceedings in D.Dis.No.C3/50017/2002 dated 5-10-2002 sanctioned the pay scales to 5 Bhajantries as Sannayai, Dolu, Sruti and for the posts of Talam 2 persons were engaged on contract basis. It is also further stated that before fixing the pay scales to the Bhajantries, there is practice to pay the part of the ticket amount towards the remuneration to the Barbers and the remuneration on each ticket for tonsuring includes the cost of blade. It is also stated that one M.Penchala Swamy and A.Siva Kumar filed W.P.No.23159/2004 for regularizing their services and latter they have given a representation to the Commissioner of Endowments to pay the remuneration on tonsuring tickets to them instead of giving to Bhajantries and since they accepted to withdraw the Writ Petition No.23159/2004, the Commissioner Endowments, has passed orders in Rc.No.D3/65708/2004 dt.28-3-2005. It is further stated that from that day onwards, the Temple used to pay the entire remuneration on the tonsuring tickets to those two persons only and the present writ petitioners never made any representations to the Temple

that they are working in the Temple even under the M.Penchala Swamy and A.Siva Kumar. It is also stated that the Temple record does not disclose who are actually engaged by those 2 Barber contractors and how many persons are engaged on what date and in the absence of any proof, the statement made by the petitioners that 15 Barbers are engaged by Temple cannot be accepted. It is also stated that insofar as the enhancement of the remuneration is concerned, the petitioners have no locus standi to seek before this Court or before authorities and the Barber contractor has sought such request. It is also stated that the Temple has paid an amount of Rs.1,54,814/- for the year 2003-2004, Rs.1,60,014 for the year 2004-2005 and Rs.1,72,254/- for the years 2005-2006 towards the remuneration for tonsuring and there is no dispute from the 2 Barber contractors with regard to payment of the above amount @Rs.2/- per ticket. It is also further stated that there is no relationship between Temple and the writ petitioners with regard to tonsuring in the Temple and hence the writ petitioners are not entitled to any directions from this Court.

7. In the light of the respective contentions of the Counsel on record and also the respective stands taken by the parties, this Court is of the considered opinion that

inasmuch as certain facts are being asserted by the writ petitioners and they being specifically denied by the 3rd respondent, the petitioners are given liberty to file appropriate representation within a period of four weeks from the date of receipt of the order to the 2nd respondent narrating the facts and the 2nd respondent to consider and dispose of the same in accordance with law at an early date preferably within a period of four weeks thereafter. The Writ Petition is accordingly disposed of. No order as to costs.

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Justice P.S.Narayana

18th September, 2007

smr